

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of A & S Collection
Associates, Inc.

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter came on for a Prehearing Conference before Administrative Law Judge Richard C. Luis (ALJ) on August 12, 2010. Michael J. Tostengard, Assistant Attorney General, appeared for the Department of Commerce (Department). Respondent A & S Collection Associates was represented by Jean Adams, its Office Manager. At the Prehearing Conference, it was agreed that the Evidentiary Hearing in this case would convene on October 27, 2010, at 9:30 a.m. The Respondent did not appear at the Hearing, in person or by counsel, nor did the Respondent contact the Administrative Law Judge to request a continuance. Based on the Respondent's failure to appear at the Evidentiary Hearing, counsel for the Department made a Motion for a Default Recommendation. The Hearing record closed on that day, October 27, 2010.

STATEMENT OF THE ISSUES

1. Did Respondent violate Minn. Stat. § 332.37, subd. 12 by representing falsely that it is licensed to do business in the State of Minnesota, in violation of the Fair Debt Collection Practices Act (15 U.S.C. § 1692(e))?
2. Has Respondent engaged in unlicensed activity in violation of Minn. Stat. § 332.33, subd. 1?
3. By failing to respond to the Department's investigation, has Respondent violated Minn. Stat. § 45.027, subd. 1a?
4. Has the Respondent demonstrated untrustworthiness in violation of Minn. Stat. § 45.027, subd. 7(4)?
5. Has the Respondent used false, deceptive, or misleading representations in connection with the collection of a debt, in violation of the Fair Debt Collection Practices Act at (15 U.S.C. § 1692(e), in violation of Minn. Stat. § 332.37, subd. 12?

Based on the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On June 16, 2010, a Notice and Order for Prehearing Conference and Hearing was served by First Class Mail on Respondent at its last known address.

2. At the Prehearing Conference in this matter on August 12, 2010, the Respondent agreed to appear at the Evidentiary Hearing, which was set for 1:30 p.m. on October 27, 2010.

3. The Notice and Order for Prehearing Conference and Hearing in this matter states, on page 5:

1. Respondent's failure to appear at the prehearing conference or hearing may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.

4. The Respondent, which did not appear at the Evidentiary Hearing, made no request for a continuance or any other relief, nor did it notify the Department, Office of Attorney General, or the Administrative Law Judge that it would be unable to appear.

5. Because Respondent failed to appear as scheduled, Respondent is in default. Under Minn. Rule 1400.6000, the allegations contained in the Notice and Order for Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Department of Commerce and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50; 45.024, subd. 1; 45.027, subd. 7; 332.40 and 332.41.

2. The Department gave proper notice of the hearing and has fulfilled all procedural requirements.

3. Respondent, having made no appearance at the Evidentiary Hearing, and having not requested any continuance or other relief, is in default. Pursuant to Minn. Rule 1400.6000, the allegations contained in the Notice and Order for Prehearing Conference and Hearing are hereby taken as true.

4. The Respondent has violated Minn. Stat. §§ 45.027, subds. 1a and 7(4), 332.33, subd. 1, and 332.37, subd. 12.

5. The violations of statute by the Respondent constitute grounds for disciplinary action.

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that the Department take appropriate disciplinary action against A & S Collection Associates, Inc.

Dated this 19th day of November, 2010

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

Reported: Default

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Glenn Wilson, Commissioner, Attn: Melissa Knoepfler, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.